

Diverse coalition urges 29-judge appeals court to protect Oak Flat

Tribal Nations, Christians, Muslims, Jews, Sikhs among broad coalition seeking to protect historic Native American sacred site

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Media Contact: Ryan Colby | media@becketlaw.org | 202-349-7219

WASHINGTON – A diverse coalition of tribal nations, religious and civil-rights groups, and legal experts filed 8 new friend-of-the-court briefs yesterday in [Apache Stronghold v. United States](#), asking all 29 judges on the Ninth Circuit Court of Appeals to protect Oak Flat from destruction by a mining project. A special “en banc” panel of eleven judges [split 6-5](#) in the case earlier this year, refusing to stop the federal government from transferring Oak Flat to Resolution Copper, a foreign-owned mining company that plans to turn Oak Flat into a massive mining crater, ending Apache religious practices forever. ([Watch this short video to learn more](#)). Last week, the Apache asked the full court for one more chance to protect their sacred site before the case goes to the Supreme Court.

“This strong showing of support from Christians, Muslims, Sikhs, Jews, and other faiths shows that the government’s threat to destroy Oak Flat is a threat to the religious freedom for people of all faiths,” **said Dr. Wendsler Nosie of Apache Stronghold**. “We hope the judges will reconsider our case and ensure that Native American religious practices receive the same respect that all other faith traditions already receive.”

Since time immemorial, Western Apaches and other Native peoples have gathered at Oak Flat for sacred religious ceremonies that cannot take place anywhere else. Known in Apache as *Chi’chil Bildagoteel*, Oak Flat is listed in the National Register of Historic Places and has been protected from mining and other harmful practices for decades. These protections were eliminated in December 2014 when a last-minute provision was inserted into a must-pass defense bill authorizing the transfer of Oak Flat to the Resolution Copper company. Resolution Copper is a foreign-owned mining company that plans to turn the sacred site into a two-mile-wide and 1,100-foot-deep crater. The majority owner of Resolution Copper, Rio Tinto, sparked international outrage when it [deliberately destroyed](#) 46,000-year-old Indigenous rock shelters at one of Australia’s most significant cultural sites.

Apache Stronghold—a coalition of Apaches, other Native peoples, and non-Native allies—filed this lawsuit in January 2021 seeking to halt the proposed mine at Oak Flat. The mine is opposed by 21 of 22 federally recognized tribal nations in Arizona and by the National Congress of American Indians. Meanwhile, national polling indicates [74% of Americans](#) support protecting Oak Flat. The Ninth Circuit ruled last month that the land transfer is not subject to federal laws protecting religious freedom. But five judges dissented, writing that the court “tragically err[ed]” by refusing to protect Oak Flat.

Including the 8 briefs filed yesterday, there have now been a total of 23 friend-of-the-court briefs filed in support of Apache Stronghold in this case, representing the voices of hundreds of federally recognized tribes, scores of religious organizations of diverse faiths, and leading scholars of Indian law and the Constitution. A full listing of briefs is available [here](#). Highlights from yesterday’s filings in *Apache Stronghold v. United States* include:

- **Tribal Nations and Tribal Organizations** arguing that this case will set vital precedent for tribal nations across the continent.
- **The Mennonite Church USA and 20 Mennonite conferences, churches and ministries** explaining how the government can manage federal lands while still providing full protection to Native American religious practices;

- **Religious liberty law scholars** arguing that the plain language of federal civil rights law requires protection of Oak Flat;
- A diverse array of 38 **religious and indigenous groups**—including the Episcopal Diocese of Eastern Oregon, the Southwestern Conference of the United Church of Christ, and the National Council of Jewish Women demonstrating broad support for Native American religious exercise from across the country;
- The **Sikh Coalition, the Christian Legal Society and the Islam and Religious Freedom Action Team of the Religious Freedom Institute** noting that the legal standard for judging Native religious liberty claims should be consistent with that for other land-use and prisoner claims;
- **Protect the First** asking the court of appeals to reconsider its narrow, inflexible approach toward Native American sacred site cases.
- The **Native American Law Students Association** pointing out the unique effect this case will have on Native American religious believers under the current interpretation of the law.
- The **Multi-Indigenous Community Action Group**, the International Council of Thirteen Indigenous Grandmothers, and a Tribal Elder explaining that the court's decision creates an unfair double standard for Native American religious exercise.

“It is heartening to see a broad coalition of tribes, religious groups, and scholars stand up in defense of Oak Flat,” said **Luke Goodrich, vice president and senior counsel at Becket**. “Our nation has a history of destroying Native sacred sites without consequence, and it’s long past time for that dark tradition to end.”

In addition to Becket, Apache Stronghold is represented by attorneys Michael V. Nixon and Clifford Levenson. The Ninth Circuit is expected to decide by this fall whether all 29 judges will rehear the case.

For more information or to arrange an interview with a Becket attorney, contact Ryan Colby at media@becketlaw.org or 202-349-7219.

Additional Information:

- [All friend-of-the court briefs filed in *Apache Stronghold v. United States*](#)
- [Apache Stronghold’s petition for full court en banc rehearing in *Apache Stronghold v. United States* \(April 15, 2024\)](#)
- [U.S. Court of Appeals for the Ninth Circuit’s En Banc Opinion in *Apache Stronghold v. United States* \(March 1, 2024\)](#)
- [U.S. Court of Appeals for the Ninth Circuit’s Initial Panel Opinion in *Apache Stronghold v. United States* \(June 24, 2022\)](#)
- [Video: Sacred Lands and Copper Ore: Apaches Fight for their Ancestral Lands](#)
- [Case Page for *Apache Stronghold v. United States*](#) (Images, b-roll and legal documents)
- [Media kit for *Apache Stronghold v. United States*](#) (Images for media use; credit Becket)



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Contact: Ryan Colby

E-mail: media@becketlaw.org

Phone: 202-349-7219

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